

#### IV. REMARKS

By this amendment, claims 10, 18, 20 and 21 have been amended. As a result, claims 1-8, 10-16, 18, and 20-24 remain pending in this application. These amendments are being made to facilitate early allowance of the presently claimed subject matter. Applicants are not conceding in this application that those claims are not patentable over the art cited by the Office, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the subject matter. Applicants do not acquiesce in the correctness of the rejections and reserves the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

Entry of this Amendment is proper under 37 C.F.R. 1.116(b) because the Amendment: (a) places the application in condition for allowance as discussed below; (b) does not raise any new issues requiring further search and/or consideration; and (c) places the application in better form for appeal. Accordingly, Applicants respectfully request entry of this Amendment.

In the Office Action, claims 18 and 20-24 are objected to. Applicants have amended the claims to address the objections. Claims 10-16, 18 and 20-24 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Applicants have amended the claims to further clarify the subject matter of the claims. Claims 1-52 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Hughes (U.S. Patent Pub. No. 2005/0160395), hereafter “Hughes,” in view of Shimada (U.S. Patent No. 6,697,965), hereafter “Shimada,” and further in view of Andrews *et al.* (U.S. Patent Pub. No 2004/0117761), hereafter “Andrews.”

Applicants assert that the references cited by the Office do not teach or suggest each and every feature of the claimed invention. For example, with respect to newly amended independent claims 1, 10, 15 and 18, Applicants submit that the cited references fail to teach or suggest comparison of a code pattern that is developed independently from all of the code patterns stored in the data structure the with the code patterns stored in the data structure to determine a closest match to the code pattern to be tested. In contrast, the passage of Andrews cited by the Office describes a development group storing different versions of its code on a storage facility. Para. 0044. The stored versions of code are used to perform quality calculations, which may be made available to authorized parties. Para. 0045. However, the quality calculations of Andrews are based on changes between versions of the same piece of code. See e.g., paras. 0032-0043. As such, any comparisons in Andrews are not between pieces of code in a database and code developed independently from those pieces of code, but rather of subsequent versions of code that are developed from the previous versions.

In contrast, the claimed invention includes “receiving a subsequent set of source code that is developed *independently* from all of the at least one code pattern stored in the data structure; extracting and classifying a code pattern to be tested from the subsequent set of source code; comparing the code pattern to be tested to the at least one code pattern stored in the data structure to determine a closest match to the code pattern to be tested.” Claim 1, *emphasis added*. As, such, the code pattern to be tested is not a version of the same code as are the versions of code in Andrews, but rather are developed independently from all of the at least one code pattern stored in the data structure. It is these code patterns that are compared to the at least one code pattern stored in the data structure to determine which code pattern in the data structure most closely

matches the code pattern to be tested. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

With respect to dependent claims, Applicants herein incorporate the arguments presented above with respect to the independent claims from which the claims depend. Furthermore, Applicants submit that all dependant claims are allowable based on their own distinct features. Since the cited art does not teach each and every feature of the claimed invention, Applicants respectfully request withdrawal of this rejection.

## **V. CONCLUSION**

In addition to the above arguments, Applicants submit that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicants do not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicants do not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicants reserve the right to present such arguments in a later response should one be necessary.

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,

/Hunter E. Webb/

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Hunter E. Webb  
Reg. No.: 54,593

Hoffman Warnick LLC  
75 State Street, 14<sup>th</sup> Floor  
Albany, New York 12207  
(518) 449-0044  
(518) 449-0047 (fax)